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AN ACT

RELATING TO HEALTH INSURANCE; IMPOSING A HEALTH INSURANCE PREMIUM SURTAX ON CERTAIN INSURANCE PREMIUMS; REQUIRING HEALTH INSURANCE COVERAGE OF AN ALPHA-FETOPROTEIN IV SCREENING TEST DURING A WOMAN'S PREGNANCY; REQUIRING HEALTH INSURANCE COVERAGE OF CIRCUMCISIONS OF NEWBORN MALES; RECONCILING CONFLICTING AMENDMENTS TO A CERTAIN SECTION OF THE NMSA 1978; CHANGING THE APPLICABILITY DATE OF CERTAIN PROVISIONS OF THE PREMIUM TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-13-3 NMSA 1978 (being Laws 1983, Chapter 289, Section 3, as amended) is amended to read:

"29-13-3. DISTRIBUTION OF CERTAIN INSURANCE DIVISION COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED.--There is created in the state treasury the "law enforcement protection fund". Ten percent of all money received for fees, licenses, penalties and taxes from life, general casualty and title insurance business pursuant to the New Mexico Insurance Code, except for money received from the health insurance premium surtax imposed by Subsection C of Section 59A-6-2 NMSA 1978, shall be paid monthly to the state treasurer and credited to the fund. On or before June 30 of each year, the state treasurer shall transfer to the general fund any balance in the law enforcement protection fund in

1 excess of one hundred thousand dollars (\$100,000) that is not  
2 obligated and that is in excess of the amount certified by  
3 the division to be distributed from that fund."

4 Section 2. Section 59A-6-2 NMSA 1978 (being Laws 1984,  
5 Chapter 127, Section 102, as amended by Laws 2003, Chapter  
6 14, Section 18 and by Laws 2003, Chapter 58, Section 1) is  
7 amended to read:

8 "59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM  
9 SURTAX.--

10 A. The premium tax provided for in this section  
11 shall apply as to the following taxpayers:

12 (1) each insurer authorized to transact  
13 insurance in New Mexico;

14 (2) each insurer formerly authorized to  
15 transact insurance in New Mexico and receiving premiums on  
16 policies remaining in force in New Mexico, except that this  
17 provision shall not apply as to an insurer that withdrew from  
18 New Mexico prior to March 26, 1955;

19 (3) each plan operating under provisions of  
20 Chapter 59A, Articles 46 through 49 NMSA 1978;

21 (4) each property bondsman, as that person  
22 is defined in Section 59A-51-2 NMSA 1978, as to any  
23 consideration received as security or surety for a bail bond  
24 in connection with a judicial proceeding, which consideration  
25 shall be considered "gross premiums" for the purposes of this

1 section; and

2 (5) each unauthorized insurer that has  
3 assumed a contract or policy of insurance directly or  
4 indirectly from an authorized or formerly authorized insurer  
5 and is receiving premiums on such policies remaining in force  
6 in New Mexico, except that this provision shall not apply if  
7 a ceding insurer continues to pay the tax provided in this  
8 section as to such policy or contract.

9 B. Each such taxpayer shall pay in accordance with  
10 this subsection a premium tax of three and three-thousandths  
11 percent of the gross premiums and membership and policy fees  
12 received by it on insurance or contracts covering risks  
13 within this state during the preceding calendar year, less  
14 all return premiums, including dividends paid or credited to  
15 policyholders or contract holders and premiums received for  
16 reinsurance on New Mexico risks.

17 C. In addition to the premium tax imposed pursuant  
18 to Subsection B of this section, each taxpayer described in  
19 Subsection A of this section that transacts health insurance  
20 in New Mexico or is a plan described in Chapter 59A, Article  
21 46 or 47 NMSA 1978 shall pay a health insurance premium  
22 surtax of one percent of the gross health insurance premiums  
23 and membership and policy fees received by it on health  
24 insurance or contracts, excluding disability income insurance  
25 or contracts, covering health risks within this state during

1 the preceding calendar year, less all return health insurance  
2 premiums, including dividends paid or credited to  
3 policyholders or contract holders and health insurance  
4 premiums received for reinsurance on New Mexico risks.  
5 Except as provided in this section, all references in the  
6 Insurance Code to the premium tax shall include both the  
7 premium tax and the health insurance premium surtax.

8 D. For each calendar quarter, an estimated payment  
9 of the premium tax and the health insurance premium surtax  
10 shall be made on April 15, July 15, October 15 and the  
11 following January 15. The estimated payments shall be equal  
12 to at least one-fourth of either the payment made during the  
13 previous calendar year or eighty percent of the actual  
14 payment due for the current calendar year, whichever is  
15 greater. The final adjustment for payments due for the prior  
16 year shall be made with the return, which shall be filed on  
17 April 15 of each year, at which time all taxes for that year  
18 are due. Dividends paid or credited to policyholders or  
19 contract holders and refunds, savings, savings coupons and  
20 similar returns or credits applied or credited to payment of  
21 premiums for existing, new or additional insurance shall, in  
22 the amount so used, constitute premiums subject to tax under  
23 this section for the year in which so applied or credited.

24 E. Exempted from the taxes imposed by this section  
25 are:

1 (1) premiums attributable to insurance or  
2 contracts purchased by the state or a political subdivision  
3 for the state's or political subdivision's active or retired  
4 employees; and

5 (2) payments received by a health  
6 maintenance organization from the federal secretary of health  
7 and human services pursuant to a contract issued under the  
8 provisions of 42 U.S.C. Section 1395 mm(g)."

9 Section 3. A new section of Chapter 59A, Article 22  
10 NMSA 1978 is enacted to read:

11 "COVERAGE OF ALPHA-FETOPROTEIN IV SCREENING TEST.--An  
12 individual or group health insurance policy, health care plan  
13 or certificate of health insurance that is delivered, issued  
14 for delivery or renewed in the state shall provide coverage  
15 for an alpha-fetoprotein IV screening test for pregnant  
16 women, generally between sixteen and twenty weeks of  
17 pregnancy, to screen for certain genetic abnormalities in the  
18 fetus."

19 Section 4. A new section of Chapter 59A, Article 22  
20 NMSA 1978 is enacted to read:

21 "COVERAGE OF CIRCUMCISION FOR NEWBORN MALES.--An  
22 individual or group health insurance policy, health care plan  
23 or certificate of health insurance that is delivered, issued  
24 for delivery or renewed in the state shall provide coverage  
25 for circumcision for newborn males."

1           Section 5. A new section of Chapter 59A, Article 23  
2 NMSA 1978 is enacted to read:

3           "COVERAGE OF ALPHA-FETOPROTEIN IV SCREENING TEST.--A  
4 blanket or group health policy, health care plan or  
5 certificate of health insurance that is delivered, issued for  
6 delivery or renewed in the state shall provide coverage for  
7 an alpha-fetoprotein IV screening test for pregnant women,  
8 generally between sixteen and twenty weeks of pregnancy, to  
9 screen for certain genetic abnormalities in the fetus."

10          Section 6. A new section of Chapter 59A, Article 23  
11 NMSA 1978 is enacted to read:

12          "COVERAGE OF CIRCUMCISION FOR NEWBORN MALES.--A blanket  
13 or group health insurance policy, health care plan or  
14 certificate of health insurance that is delivered, issued for  
15 delivery or renewed in the state shall provide coverage for  
16 circumcision for newborn males."

17          Section 7. A new section of the Health Maintenance  
18 Organization Law is enacted to read:

19          "COVERAGE OF ALPHA-FETOPROTEIN IV SCREENING TEST.--An  
20 individual or group health maintenance organization policy,  
21 health care plan or certificate of health insurance that is  
22 delivered, issued for delivery or renewed in the state shall  
23 provide coverage for an alpha-fetoprotein IV screening test  
24 for pregnant women, generally between sixteen and twenty  
25 weeks of pregnancy, to screen for certain genetic

1 abnormalities in the fetus."

2 Section 8. A new section of the Health Maintenance  
3 Organization Law is enacted to read:

4 "COVERAGE OF CIRCUMCISION FOR NEWBORN MALES.--An  
5 individual or group health maintenance organization policy,  
6 health care plan or certificate of health insurance that is  
7 delivered, issued for delivery or renewed in the state shall  
8 provide coverage for circumcision for newborn males."

9 Section 9. A new section of the Nonprofit Health Care  
10 Plan Law is enacted to read:

11 "COVERAGE OF ALPHA-FETOPROTEIN IV SCREENING TEST.--An  
12 individual or group health insurance policy, health care plan  
13 or certificate of health insurance that is delivered, issued  
14 for delivery or renewed in the state shall provide coverage  
15 for an alpha-fetoprotein IV screening test for pregnant  
16 women, generally between sixteen and twenty weeks of  
17 pregnancy, to screen for certain genetic abnormalities in the  
18 fetus."

19 Section 10. A new section of the Nonprofit Health Care  
20 Plan Law is enacted to read:

21 "COVERAGE OF CIRCUMCISION FOR NEWBORN MALES.--An  
22 individual or group health insurance policy, health care plan  
23 or certificate of health insurance that is delivered, issued  
24 for delivery or renewed in the state shall provide coverage  
25 for circumcision for newborn males."

1           Section 11. Laws 2003, Chapter 58, Section 3 is amended  
2 to read:

3           "Section 3. APPLICABILITY.--The provisions of Laws  
4 2003, Chapter 58, Section 1 apply to premiums received in the  
5 2003 and subsequent calendar years; provided, however, that:

6           A. with respect to premiums received prior to  
7 March 20, 2003, the provisions of Subsection E of Section  
8 59A-6-2 NMSA 1978 in effect prior to the effective date of  
9 Laws 2003, Chapter 58, Section 1 shall be applicable; and

10           B. on or after July 1, 2004, any premium tax  
11 overpaid between January 1, 2003 and March 20, 2003 because  
12 of the application of Subsection E of Section 59A-6-2 NMSA  
13 1978, as amended by Laws 2003, Chapter 58, Section 1, may be  
14 credited against future premium tax payments."

15           Section 12. APPLICABILITY.--

16           A. Unless an earlier surtax payment is required by  
17 the operation of Subsection B of this section, the health  
18 insurance premium surtax imposed by Section 2 of this act is  
19 applicable to all health insurance premiums and membership  
20 and policy fees received on or after October 1, 2004.

21           B. The health insurance premium surtax imposed by  
22 Section 2 of this act is also applicable to all health  
23 insurance premiums and membership and policy fees received  
24 for contracts issued or renewed on or after July 1, 2004.

25           Section 13. EFFECTIVE DATE.--The effective date of the

